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Driggs, Hogg, Daugherty & Del Zoppo Co., L.P.A. 38500 CHARDON ROAD DEPT. LEN WILLOUGHBY HILLS, OH 44094			ERB, NATHAN	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/777,429	CHESTON ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	NATHAN ERB	3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 25 August 2008.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-39 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-39 is/are rejected.

7) Claim(s) 26 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 25, 2008, has been entered.

### ***Response to Arguments***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Applicants' response to Office action was received on August 25, 2008.
4. In response to Applicants' amendment of the claims, the claim objection to claim 19 from the previous Office action is hereby withdrawn. However, the claim objection to claim 26 has not been remedied and therefore remains. Specifically, Examiner believes that the semicolon (;) following the phrase "in response to the central location having connectivity to the remote system" should be changed to a colon (:) because the language is introducing a list of fairly lengthy limitations separated by semicolons.
5. In response to Applicants' amendment of the claims, all of the claim rejections under 35 U.S.C. 112, second paragraph, from the previous Office action are hereby withdrawn.

6. In response to Applicants' amendment of claim 31, the rejection of claim 31 under 35 U.S.C. 101 from the previous Office action is hereby withdrawn.

7. In response to Applicant's (or Applicants') amendment of the claim(s), the corresponding prior art rejection(s) of the claim(s) have (or has) been amended below in this Office action.

8. Regarding the prior art rejection of amended claim 1, Applicants argue that the prior art, including Hensley, does not disclose storing information in secure storage protected from tampering. Examiner disagrees. Specifically, with respect to Hensley, Applicants state: "Hensley discloses hiding and protecting a boot directory by intercepting access and entry requests to the directory. Thus, the boot directory is protected from access and entry; however, if a hacker or the like hacks into the boot directory, nothing prevents the hacker from tempering with the boot directory or the files stored therein. As such, Hensley does not make up for the deficiencies of Hoffman." In addressing this argument, Examiner referred to Applicants' specification to understand what "secure" and "protected" storage means in the context of this application.

Applicants' specification, p. 11, states: "Importantly to embodiments of the present invention, the operations of tracking and reporting component 205 are transparent to and hidden from a user of system 100. In this way, the operation of component 205 does not interfere with the user's use and enjoyment of system 100 and, in the same way, the user cannot interfere or tamper with the operation of component 205.

Similarly, the secure storage area 207 is preferably hidden from the user and protected in some way from tampering. Secure storage area 207 may be hidden from view and

protected from tampering in any number of ways well-known to those skilled in the related arts." Thus, it seems that at least one of the ways in which data in this application may be made secure and protected from tampering is by making the data hidden. The data in Hensley is hidden. Therefore, the secure storage in Hensley meets the language of Applicants' amended claim 1. Also, hidden data is indeed more difficult for a hacker to access. Therefore, Applicants' arguments are not persuasive with respect to this issue.

9. All of Applicants' remaining arguments are either based on the above argument or rendered no longer relevant by the amendment of the prior art claim rejections below in this Office action, most notably by the addition of Proudler et al. Therefore, Applicants' arguments are not persuasive.

### ***Claim Objections***

10. Claim 26 is objected to because of the following informality: In the fifth line of claim 26, please replace the semicolon at the end of the line with a colon. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

11. Claims 1, 3-4, 6-14, and 38-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al., U.S. Patent Application Publication No. US 2005/0137973 A1, in view of Hensley, U.S. Patent Application Publication No. US 2004/0133790 A1.

As per Claims 1 and 8, Hoffman et al. discloses:

- a method (title of reference);
- charging a first price for a computer system (paragraphs [0040] and [0049]);
- tracking the execution by the computer system of at least one chargeable technology (paragraphs [0013]-[0014]);

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- wherein said tracking includes: gathering information relative to the execution (paragraphs [0013]-[0014]);
  - storing the information (paragraphs [0013]-[0014]; paragraph [0067]);
  - charging an additional price for each execution of the at least one chargeable technology by the computer system (paragraphs [0013]-[0014]);
  - selecting execution of a chargeable technology on a client computing system (paragraphs [0013]-[0014]);
    - executing said selected chargeable technology (paragraphs [0013]-[0014]);
    - collecting data relating to said execution on said client computing system (paragraphs [0013]-[0014]);
      - storing said collected data (paragraphs [0013]-[0014]; paragraph [0067]).

Hoffman et al. fails to disclose wherein information (or data) is stored in secure storage (or a protected storage area on said system) that is protected from tampering. Hensley discloses wherein information (or data) is stored in secure storage (or a protected storage area on said system) that is protected from tampering (paragraph [0010]; paragraph [0015]; paragraph [0028]). It would have been obvious to one of ordinary skill in the art to modify the invention of Hoffman et al. (including any previous modifications above in this rejection or in the rejection of a claim [or claims] from which this claim depends [or these claims depend]) such that information (or data) is stored in secure storage (or a protected storage area on said system) that is protected from tampering, as disclosed by Hensley, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per Claims 3 and 9, Hoffman et al. further discloses said information comprising: a date and time of the execution; an identity of the chargeable technology executed; and unique identifying information associated with the computer system (paragraphs [0013]-[0014]; p. 5, Table 1).

As per Claims 4 and 10, Hoffman et al. and Hensley fail to disclose encrypting the collected data before storing the collected data. However, that element/limitation was well-known to one of ordinary skill in the art at the time of applicants' invention. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the invention of Hoffman et al. as modified in the rejection for claim 3 such that it encrypts the collected data before storing the collected data, as was well-known to one of ordinary skill in the art at the time of applicants' invention. Motivation is provided in that it was well-known to one of ordinary skill in the art at the time of applicants' invention that encrypting data helps ensure privacy.

As per Claim 6, Hoffman et al. further discloses wherein said computer system comprises at least two computer systems delivered by a system provider to at least two users within a group (paragraph [0071]; "users" indicates multiplicity of customers).

As per Claim 7, Hoffman et al. further discloses wherein tracking the execution of the at least one chargeable technology comprises tracking said execution on all systems within the group (paragraphs [0013]-[0014]; paragraph [0071]; "users" indicates multiplicity of customers). Hoffman et al. and Hensley fail to disclose charging one price to the group for all executions of the at least one chargeable technology by the users within the group. However, that element/limitation was well-known to one of ordinary skill in the art at the time of applicants' invention. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the invention of Hoffman et al. as modified in the rejection for claim 6 such that it charges one price to the group for all executions of the at least one chargeable technology by the users within the group, as was well-known to one of ordinary skill in the art at the time of applicants' invention. Motivation is provided in that it was well-known to one of ordinary skill in the art at the time of applicants' invention that it is sometimes more convenient to group users under a single bill.

As per Claim 11, Hoffman et al. further discloses gathering said collected data from the protected storage area and forwarding said collected data to a predetermined central location on the network in response to the client computing system being connected to the network (paragraph [0067]).

As per Claim 12, Hoffman et al. further discloses wherein the determining, gathering and forwarding steps are performed without the intervention or knowledge of a user of said system (paragraph [0067]).

As per Claim 13, Hoffman et al. further discloses wherein the selecting execution step comprises initiation by a user of the system (paragraphs [0013]-[0014]).

As per Claim 14, Hoffman et al. and Hensley fail to disclose wherein the selecting execution step comprises an automatic selection by the system based on an occurrence of a pre-determined event, without the intervention or knowledge of a user of the system. However, that element/limitation was well-known to one of ordinary skill in the art at the time of applicants' invention. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the invention of Hoffman et al. as modified in the rejection for claim 8 such that the selecting execution step comprises an automatic selection by the system based on an occurrence of a pre-determined event, without the intervention or knowledge of a user of the system, as was well-known to one of ordinary skill in the art at the time of applicants' invention. Motivation is provided in that it was well-known to one of ordinary skill in the art at the time of applicants' invention that automatic triggering of computer resources when needed is convenient.

As per Claim 38, Hoffman et al. further discloses wherein the at least one chargeable technology is the computer system (paragraphs [0013]-[0014]).

As per Claim 39, Hoffman et al. further discloses wherein the at least one chargeable technology is hardware of the computer system (paragraphs [0013]-[0014]).

12. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al. in view of Hensley in further view of Dresden, U.S. Patent Application Publication No. US 2005/0021440 A1.

As per Claim 2, Hoffman et al. and Hensley fail to disclose wherein the first price is lower than a break-even price for a provider. Dresden discloses wherein the first price is lower than a break-even price for a provider (paragraph [0009]). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the invention of Hoffman et al. as modified in the rejection for claim 1 such that the first price is lower than a break-even price for a provider, as disclosed by Dresden. Motivation is provided by Dresden in that selling below cost may be used to gain market share (paragraph [0009]).

13. Claims 5 and 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al. in view of Hensley in further view of Abrams et al., U.S. Patent Application Publication No. US 2002/0166117 A1.

As per Claim 5, Hoffman et al. further discloses wherein charging an additional price comprises: gathering the stored data relating to use of a chargeable technology; creating a technology usage report

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indicating the use of each chargeable technology; creating an invoice representing charges for the at least one chargeable technology; sending the report and the invoice to a user of the computer system (paragraphs [0013]-[0014]; paragraph [0054]). Hoffman et al. and Hensley fail to disclose wherein billing is done on a per-use basis. Abrams et al. discloses wherein billing is done on a per-use basis (paragraph [0138]). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the invention of Hoffman et al. as modified in the rejection for claim 3 such that billing is done on a per-use basis, as disclosed by Abrams et al. Motivation is provided in that it was well-known to one of ordinary skill in the art at the time of applicants' invention that per-use may be a strategically desirable way to bill for a business's service.

As per Claim 29, Hoffman et al. discloses:

- a method (paragraphs [0013]-[0014]);
- receiving data in a client system relating to execution by a user on said system of at least one chargeable technology (paragraphs [0013]-[0014]);
- storing said data in a manner retrievable according to the user (paragraphs [0013]-[0014]; paragraph [0067]);
- periodically retrieving said data according to user and creating a technology usage report for each user indicating usage of each chargeable technology by each user (paragraphs [0013]-[0014]; paragraph [0067]; p. 5, Table 1).

Hoffman et al. fails to disclose wherein the data storage is tamper proof. Hensley discloses wherein the data storage is tamper proof (paragraph [0010]; paragraph [0015]; paragraph [0028]). It would have been obvious to one of ordinary skill in the art to modify the invention of Hoffman et al. (including any previous modifications above in this rejection or in the rejection of a claim [or claims] from which this claim depends [or these claims depend]) such that the data storage is tamper proof, as disclosed by Hensley, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Hoffman et al. and Hensley fail to disclose wherein billing is done on a per-use basis. Abrams et al. discloses wherein billing is done on a per-use basis (paragraph [0138]). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the invention of Hoffman et al. as modified above in this rejection such that billing is done on a per-use basis, as disclosed by Abrams et al. Motivation is provided in that it was well-known to one of ordinary skill in the art at the time of applicants' invention that per-use may be a strategically desirable way to bill for a business's service.

Hoffman et al., Hensley, and Abrams et al. fail to disclose generating the technology usage report at the server. However, it was well-known to one of ordinary skill in the art at the time of applicants' invention that functions in a client/server system can typically be performed at either the client or the server. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the invention of Hoffman et al. as modified above in this rejection such that it generates the technology usage report at the server; in doing so, it would be performing the function at the server, as was well-known to one of ordinary skill in the art at the time of applicants' invention. Motivation is provided in that it was well-known to one of ordinary skill in the art at the time of applicants' invention that a server may have more processing power than a client.

As per Claim 30, Hoffman et al. further discloses configuring the client system with at least one chargeable technology; and configuring the client system with a capability to track and report data relating to the execution by a user of the system of the at least one chargeable technology (paragraphs [0013]-[0014]).

As per Claim 31, Hoffman et al., Hensley, and Abrams et al. fail to disclose wherein an invoice representing charges is generated at the client. However, it was well-known to one of ordinary skill in the art at the time of applicants' invention that functions in a client/server system can typically be performed at either the client or the server. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the invention of Hoffman et al. as modified in the rejection for claim 29

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such that an invoice representing charges is generated at the client; in doing so, it would be performing the function at the client, as was well-known to one of ordinary skill in the art at the time of applicants' invention. Motivation is provided in that it was well-known to one of ordinary skill in the art at the time of applicants' invention that performing functions at a client may help relieve processing burden on a server.

14. Claims 15-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al. in view of Hensley in further view of Proudler et al., U.S. Patent No. 7,302,698 B1, in further view of PR Newswire, "Terra Lycos and Network Associates(R) Team Up to Provide Online Security Protection for Consumers," New York, February 4, 2004, p. 1.

As per Claim 15, Hoffman et al. discloses:

- a method (title of reference);
- selecting execution of a chargeable technology on said system (paragraphs [0013]-[0014]);
- executing said selected chargeable technology (paragraphs [0013]-[0014]);
- collecting data relating to said execution on said computer system (paragraphs [0013]-[0014]);
- storing said collected data (paragraphs [0013]-[0014]; paragraph [0067]).

Hoffman et al. fails to disclose recognizing in a computer system an event indicating a need for execution by the computer system of at least one chargeable technology. However, that element/limitation was well-known to one of ordinary skill in the art at the time of applicants' invention (this is typical when a user of a home computer initiates a virus cleaner program). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the invention of Hoffman et al. such that a user recognizes in a computer system an event indicating a need for execution by the computer system of at least one chargeable technology, as was well-known to one of ordinary skill in the art at the time of applicants' invention. Motivation is provided in that it was well-known to one of ordinary skill in the art at the time of applicants' invention that it is sometimes necessary to notice computer problems in order to correct them.

Hoffman et al. fails to disclose wherein data is stored in a protected storage area on said system. Hensley discloses data is stored in a protected storage area on said system (paragraph [0010]; paragraph [0015]; paragraph [0028]). It would have been obvious to one of ordinary skill in the art to modify the invention of Hoffman et al. (including any previous modifications above in this rejection or in the rejection of a claim [or claims] from which this claim depends [or these claims depend]) such that data is stored in a protected storage area on said system, as disclosed by Hensley, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Hoffman et al. and Hensley fail to disclose entering an alternate operating mode stored in the BIOS of the system from a primary operating mode by initiating execution of an alternate operating system; executing a function while in the alternate operating system; and returning control of the system to the primary operating system for normal operation. Proudler et al. discloses entering an alternate operating mode stored in the BIOS of the system from a primary operating mode by initiating execution of an alternate operating system; executing a function while in the alternate operating system; and returning control of the system to the primary operating system for normal operation (column 3, line 30, through column 6, line 26; column 12, line 65, through column 13, line 16; column 13, line 29, through column 14, line 19; column 16, line 46, through column 17, line 51). It would have been obvious to one of ordinary skill in the art to modify the invention of Hoffman et al. (including any previous modifications above in this rejection or in the rejection of a claim [or claims] from which this claim depends [or these claims depend])

such that it enters an alternate operating mode stored in the BIOS of the system from a primary operating mode by initiating execution of an alternate operating system; executes a function while in the alternate operating system; and returns control of the system to the primary operating system for normal operation, as disclosed by Proudler et al., since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

RESPONSE TO OFFICIAL NOTICE CHALLENGE: With respect to the prior art rejection of claim 15, Applicants dispute Examiner's "well-known" statement by stating that simply the fact that a user executes a virus cleaner program in response to some recognized problem does not mean that the virus program is necessarily a "chargeable technology." In response, Examiner counterargues that it is not necessary for the purposes of the rejection that a virus cleaner must ALWAYS be a chargeable technology; rather, it is sufficient for the purposes of the rejection that a virus program is sometimes a chargeable technology. In support of Examiner's "well-known" statement, Examiner presents PR Newswire, "Terra Lycos and Network Associates(R) Team Up to Provide Online Security Protection for Consumers," New York, February 4, 2004, p. 1, which demonstrates that some anti-virus software was indeed a chargeable technology. For example, Section A of PR Newswire discusses how the McAfee anti-virus software was being offered on a monthly subscription basis. Therefore, the user would be being charged for ongoing use of the software and such an anti-virus program was an example of a chargeable technology at the time. Therefore, Applicants' arguments are not persuasive with respect to this issue.

As per Claim 16, Hoffman et al. fails to disclose wherein the selecting execution step comprises a selection by a user of the system of a chargeable technology to execute from a menu or list of available chargeable technologies presented to said user. However, that element/limitation was well-known to one of ordinary skill in the art at the time of applicants' invention. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the invention of Hoffman et al. as modified in the rejection for claim 15 such that the selecting execution step comprises a selection by a user of the system of a chargeable technology to execute from a menu or list of available chargeable technologies presented to said user, as was well-known to one of ordinary skill in the art at the time of applicants' invention. Motivation is provided in that it was well-known to one of ordinary skill in the art at the time of applicants' invention that menus are a convenient way for a user to interface with a computer system.

As per Claim 17, Hoffman et al. fails to disclose wherein the selecting execution step comprises an automatic selection by the system of a chargeable technology to execute based on the type of the event. However, that element/limitation was well-known to one of ordinary skill in the art at the time of applicants' invention. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the invention of Hoffman et al. as modified in the rejection for claim 15 such that the selecting execution step comprises an automatic selection by the system of a chargeable technology to execute based on the type of the event, as was well-known to one of ordinary skill in the art at the time of applicants' invention. Motivation is provided in that it was well-known to one of ordinary skill in the art at the time of applicants' invention that automated troubleshooters are convenient for users who may not be able to correct a problem on their own.

As per Claim 18, Hoffman et al. fails to disclose encrypting and digitally signing the data prior to storing the data. However, that element/limitation was well-known to one of ordinary skill in the art at the time of applicants' invention. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the invention of Hoffman et al. as modified in the rejection for claim 15 such that it encrypts and digitally signs the data prior to storing the data, as was well-known to one of ordinary skill in the art at the time of applicants' invention. Motivation is provided in that it was well-known to one of ordinary skill in the art at the time of applicants' invention that encrypting and digitally signing data helps ensure privacy.

As per Claim 19, Hoffman et al. fails to disclose wherein the stored data is protected from tampering. Hensley further discloses wherein the stored data is protected from tampering (paragraph [0010]; paragraph [0015]; paragraph [0028]). It would have been obvious to one of ordinary skill in the art to modify the invention of Hoffman et al. (including any previous modifications above in this rejection or in the rejection of a claim [or claims] from which this claim depends [or these claims depend]) such that the stored data is protected from tampering, as disclosed by Hensley, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per Claim 20, Hoffman et al. fails to disclose wherein said alternate operating system is provided on the system in a manner which is hidden from a user of the system and protected from tampering. Hensley further discloses wherein said alternate operating system is provided on the system in a manner which is hidden from a user of the system and protected from tampering (abstract; paragraphs [0001]-[0010]). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the invention of Hoffman et al. as modified in the rejection for claim 19 such that said alternate operating system is provided on the system in a manner which is hidden from a user of the system and protected from tampering, as disclosed by Hensley. Motivation is provided by Hensley in that such an alternate operating system can be useful in helping to recover a computer system from a virus attack (abstract; paragraphs [0001]-[0010]).

As per Claim 21, Hoffman et al. further discloses gathering said stored data and forwarding said data to a predetermined central location on the network in response to determining the system is connected to the network (paragraph [0067]).

As per Claim 22, Hoffman et al. further discloses wherein the entire said process is performed without the intervention or knowledge of a user of the system (paragraph [0067]).

15. Claims 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al. in view of Hensley in further view of Proudler et al.

As per Claim 23, Hoffman et al. discloses:

- a method (title of reference);
- receiving at the central location data representing at least one execution by a remote system of at least one chargeable technology (paragraphs [0013]-[0014]; paragraph [0067]);
- storing said data in said central location (paragraphs [0013]-[0014]; paragraph [0067]).

Hoffman et al. fails to disclose wherein the execution of computing functions is distributed across a network. However, Examiner hereby takes Official Notice that this element/limitation was well-known to one of ordinary skill in the art at the time of Applicants' invention (for example, paid access to online remote computer services was well-known). It would have been obvious to one of ordinary skill in the art to modify the invention of Hoffman et al. (including any previous modifications above in this rejection or in the rejection of a claim [or claims] from which this claim depends [or these claims depend]) such that the execution of computing functions is distributed across a network, as disclosed by Official Notice, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Hoffman et al. fails to disclose wherein data is stored in a protected area, wherein the protected area protects stored data from tampering. Hensley discloses wherein data is stored in a protected area, wherein the protected area protects stored data from tampering (paragraph [0010]; paragraph [0015]; paragraph [0028]). It would have been obvious to one of ordinary skill in the art to modify the invention of

Hoffman et al. (including any previous modifications above in this rejection or in the rejection of a claim [or claims] from which this claim depends [or these claims depend]) such that data is stored in a protected area, wherein the protected area protects stored data from tampering, as disclosed by Hensley, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Hoffman et al. and Hensley fail to disclose executing an alternate operating mode in response to a selection in a primary operating mode. Proudler et al. discloses executing an alternate operating mode in response to a selection in a primary operating mode (column 3, line 30, through column 6, line 26; column 12, line 65, through column 13, line 16; column 13, line 29, through column 14, line 19; column 16, line 46, through column 17, line 51). It would have been obvious to one of ordinary skill in the art to modify the invention of Hoffman et al. (including any previous modifications above in this rejection or in the rejection of a claim [or claims] from which this claim depends [or these claims depend]) such that it executes an alternate operating mode in response to a selection in a primary operating mode, as disclosed by Proudler et al., since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Hoffman et al., Hensley, and Proudler et al. fail to disclose wherein the selection of the execution of a computer program and the execution of the computer program occur in response to recognizing an event indicating a need for execution of at least one chargeable technology. However, Examiner hereby takes Official Notice that this element/limitation was well-known to one of ordinary skill in the art at the time of Applicants' invention (this is typical when a user of a home computer initiates a virus cleaner program). It would have been obvious to one of ordinary skill in the art to modify the invention of Hoffman et al. (including any previous modifications above in this rejection or in the rejection of a claim [or claims] from which this claim depends [or these claims depend]) such that the selection of the execution of a computer program and the execution of the computer program occur in response to recognizing an event indicating a need for execution of at least one chargeable technology, as disclosed by Official Notice, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per Claim 24, Hoffman et al. fails to disclose decrypting said data prior to storing said data. However, that element/limitation was well-known to one of ordinary skill in the art at the time of applicants' invention. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the invention of Hoffman et al. such that it decrypts said data prior to storing said data, as was well-known to one of ordinary skill in the art at the time of applicants' invention. Motivation is provided in that it was well-known to one of ordinary skill in the art at the time of applicants' invention that it is generally necessary to first decrypt data so that it may be used.

As per Claim 25, Hoffman et al. further discloses wherein said data comprises: a date and time of the execution; an identity of the chargeable technology executed; and unique identifying information associated with the remote system (paragraphs [0013]-[0014]; p. 5, Table 1).

16. Claims 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al. in view of Hensley in further view of Proudler et al. in further view of Abrams et al.

As per Claim 26, Hoffman et al. further discloses in response to the central location having connectivity to the remote system: gathering the stored data corresponding to said remote system; creating an invoice representing charges for said execution of said at least one chargeable technology;

and forwarding said invoice to the remote system (paragraphs [0013]-[0014]; paragraph [0054]). Hoffman et al., Hensley, and Proudler et al. fail to disclose wherein billing is done on a per-use basis. Abrams et al. discloses wherein billing is done on a per-use basis (paragraph [0138]). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the invention of Hoffman et al. as modified in the rejection for claim 25 such that billing is done on a per-use basis, as disclosed by Abrams et al. Motivation is provided in that it was well-known to one of ordinary skill in the art at the time of applicants' invention that per-use may be a strategically desirable way to bill for a business's service.

As per Claim 27, Hoffman et al. further discloses wherein said remote system comprises at least two remote systems associated with at least two users within at least one group (paragraph [0071]; "users" indicates multiplicity of customers).

As per Claim 28, Hoffman et al., Hensley, and Proudler et al. fail to disclose conducting the billing process on a group basis. Abrams et al. further discloses conducting the billing process on a group basis (paragraph [0068]; paragraph [0078]). It would have been obvious to one of ordinary skill in the art to modify the invention of Hoffman et al. (including any previous modifications above in this rejection or in the rejection of a claim [or claims] from which this claim depends [or these claims depend]) such that it conducts the billing process on a group basis, as disclosed by Abrams et al., since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

17. Claims 32 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al. in view of Proudler et al.

As per Claim 32, Hoffman et al. discloses:

- a computer system (paragraphs [0013]-[0014]);
- at least one central processing unit (CPU) (paragraphs [0013]-[0014]);
- a memory operatively connected to the CPU (paragraph [0098]);
- a non-volatile storage operatively connected to the CPU and holding at least a primary operating system for execution on said CPU and effective to execute controlling the operation of the system (paragraphs [0013]-[0014]; paragraph [0098]; operable computers have operating systems);
  - a communication interface operatively connected to said CPU for interfacing said system with a network (paragraphs [0013]-[0014]);
  - at least one chargeable technology accessible for execution on said CPU (paragraphs [0013]-[0014]);
  - a chargeable-technology-usage-tracking component accessible for execution on said CPU for tracking the execution by the system of the at least one chargeable technology (paragraphs [0013]-[0014]).

Hoffman et al. fails to disclose a bootable device operatively connected to the system and holding at least an alternate operating system for execution on said CPU and effective when executing for controlling the operation of the system. Proudler et al. discloses a bootable device operatively connected to the system and holding at least an alternate operating system for execution on said CPU and effective when executing for controlling the operation of the system (column 3, line 30, through column 6, line 26; column 12, line 65, through column 13, line 16; column 13, line 29, through column 14, line 19; column 16, line 46, through column 17, line 51). It would have been obvious to one of ordinary skill in the art to modify the invention of Hoffman et al. (including any previous modifications above in this rejection or in the rejection of a claim [or claims] from which this claim depends [or these claims depend]) such that it includes a bootable device operatively connected to the system and holding at least an alternate operating system for execution on said CPU and effective when executing for controlling the operation of the system, as disclosed by Proudler et al., since the claimed invention is merely a combination of old

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elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per Claim 35, Hoffman et al. discloses:

- a central-location computer system (paragraphs [0013]-[0014]; paragraph [0067]);
- at least one central processing unit (CPU) (paragraphs [0013]-[0014]; paragraph [0067]; paragraph [0098]);
  - a memory operatively connected to the CPU (paragraphs [0013]-[0014]; paragraph [0067]; paragraph [0098]);
  - a non-volatile storage operatively connected to the CPU and holding at least a primary operating system for execution on said CPU which is effective to execute controlling the operation of the system (paragraphs [0013]-[0014]; paragraph [0067]; paragraph [0098]; operable computers have operating systems);
  - a communication interface operatively connected to said CPU for interfacing said system with a network (paragraphs [0013]-[0014]);
  - a chargeable-technology-data-receiving component for receiving from remote systems data indicative of execution on said remote systems of the at least one chargeable technology (paragraphs [0013]-[0014]; paragraph [0067]);
  - a technology-usage-data-reporting-and-billing component for periodically sending to the remote systems a usage report detailing the use by the remote systems of the at least one chargeable technology (paragraphs [0013]-[0014]; paragraph [0054]).

Hoffman et al. fails to disclose a BIOS of the system that holds at least an alternate operating system for execution on said CPU in response to the selection of the execution of a computer program while in the primary operating system. Proudler et al. discloses a BIOS of the system that holds at least an alternate operating system for execution on said CPU in response to the selection of the execution of a computer program while in the primary operating system (column 3, line 30, through column 6, line 26; column 12, line 65, through column 13, line 16; column 13, line 29, through column 14, line 19; column 16, line 46, through column 17, line 51). It would have been obvious to one of ordinary skill in the art to modify the invention of Hoffman et al. (including any previous modifications above in this rejection or in the rejection of a claim [or claims] from which this claim depends [or these claims depend]) such that it includes a BIOS of the system that holds at least an alternate operating system for execution on said CPU in response to the selection of the execution of a computer program while in the primary operating system, as disclosed by Proudler et al., since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Hoffman et al. and Proudler et al. fail to disclose wherein the selection of the execution of a computer program occurs in response to recognizing an event indicating a need for execution of at least one chargeable technology. However, Examiner hereby takes Official Notice that this element/limitation was well-known to one of ordinary skill in the art at the time of Applicants' invention (this is typical when a user of a home computer initiates a virus cleaner program). It would have been obvious to one of ordinary skill in the art to modify the invention of Hoffman et al. (including any previous modifications above in this rejection or in the rejection of a claim [or claims] from which this claim depends [or these claims depend]) such that the selection of the execution of a computer program occurs in response to recognizing an event indicating a need for execution of at least one chargeable technology, as disclosed by Official Notice, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

18. Claims 33-34 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al. in view of Proudler et al. in further view of Hensley.

As per Claim 33, Hoffman et al. and Proudler et al. fail to disclose wherein the alternate operating system is located in a tamper proof, protected and hidden area and wherein said alternate operating system executes on said CPU to perform functions. Hensley discloses wherein the alternate operating system is located in a tamper proof, protected and hidden area and wherein said alternate operating system executes on said CPU to perform functions (abstract; paragraphs [0001]-[0010]). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the invention of Hoffman et al. as modified in the rejection for claim 32 such that the alternate operating system is located in a tamper proof, protected and hidden area and wherein said alternate operating system executes on said CPU to perform functions, as disclosed by Hensley. Motivation is provided by Hensley in that such a configuration may help to recover a computer system with system problems (abstract; paragraphs [0001]-[0010]).

As per Claim 34, Hoffman et al. further discloses storing data relating to the execution by the system of said at least one chargeable technology (paragraphs [0013]-[0014]; paragraph [0067]). Hoffman et al. and Proudler et al. fail to disclose a secure, hidden area of said non-volatile storage. Hensley discloses a secure, hidden area of said non-volatile storage (abstract; paragraphs [0001]-[0010]). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the invention of Hoffman et al. as modified in the rejection for claim 32 such that it includes a secure, hidden area of said non-volatile storage, as disclosed by Hensley. Motivation is provided by Hensley in that such an area can help safeguard data from computer viruses (abstract; paragraphs [0001]-[0010]).

As per Claim 36, Hoffman et al. further discloses storing the data received from the remote systems (paragraphs [0013]-[0014]; paragraph [0098]). Hoffman et al. and Proudler et al. fail to disclose a secure, hidden area of said non-volatile storage for use. Hensley discloses a secure, hidden area of said non-volatile storage for use (abstract; paragraphs [0001]-[0010]). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the invention of Hoffman et al. such that it includes a secure, hidden area of said non-volatile storage for use, as disclosed by Hensley. Motivation is provided by Hensley in that such an area can help safeguard data from computer viruses (abstract; paragraphs [0001]-[0010]).

19. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al. in view of Proudler et al. in further view of Hensley in further view of Abrams et al.

As per Claim 37, Hoffman et al. further discloses wherein said usage report comprises an invoice representing charges for the executions by the remote systems of the at least one chargeable technology (paragraphs [0013]-[0014]; paragraph [0054]), Hoffman et al., Proudler et al., and Hensley fail to disclose wherein billing is done on a per-use basis. Abrams et al. discloses wherein billing is done on a per-use basis (paragraph [0138]). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the invention of Hoffman et al. as modified in the rejection for claim 36 such that billing is done on a per-use basis, as disclosed by Abrams et al. Motivation is provided in that it was well-known to one of ordinary skill in the art at the time of applicants' invention that per-use may be a strategically desirable way to bill for a business's service.

***Conclusion***

20. **Examiner's Note:** Examiner has cited particular portions of the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that the applicant, in preparing the responses, fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to NATHAN ERB whose telephone number is (571) 272-7606. The examiner can normally be reached on M-F 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on (571) 272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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